

GOVERNOR'S
REASONS
FOR VETO:

The Governor said the Highway Commissioners are volunteers and should not be paid full-time salaries. The Highway Department is the only state agency in which the equivalent of a full-time salary is appropriated for the services of part-time citizen board members, he said.

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VIEW:

Rep. Rudd said that he "has no quarrel" with the veto. He said that Highway Commission members have been paid full-time salaries for years, but there is no good reason to continue the practice.

Stephen F. Austin claims contingency
(item veto in HB 20 by Rudd)

DIGEST: The general appropriations bill contained a line item of \$325,000 for the biennium to pay anticipated claims against Stephen F. Austin University.

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The Governor said payments of this kind between legislative sessions could be handled through the claims fund administered by the Comptroller's office. He also thought the \$325,000-contingency in the appropriations bill could prove to be unnecessary, since no claims have yet been presented or awarded. He said it would be "inappropriate to identify a certain sum of money for the parties' consideration in pursuing their monetary claims"

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VIEW:

Rep. Rudd said that it was true that the claim could be handled by the Comptroller's claims fund. He said this item was the only contingency item of its type in the budget, and it "was not right to begin with."

State liability for certain claims
(HB 226 by T. Smith)

DIGEST: Under VACS art. 6252-26, the state is liable for damages, court costs, and attorney's fees awarded in civil suits against state employees where the damages are based on an action by an employee in the course of doing state work and the employee was not acting in bad faith. This bill would have amended art. 6252-26 by

requiring the state to indemnify former or current state employees for up to \$10,000 in attorney's fees incurred in defending against criminal prosecutions if the conduct for which the employee is being prosecuted could also give rise to a civil suit in which the state could be held liable. This indemnification would have applied only if the case were dismissed without a guilty or no-contest plea or if the defendant were found not guilty after trial or appeal. The bill would also have substituted the term "malice" for "bad faith" in describing conduct in the statute for which the state will not be liable.

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The Governor said the bill would have broadened the scope of the state's liability too much by requiring it to indemnify judgments unless a court found that the employee acted with malice instead of with bad faith. He affirmed the state's duty to stand behind state employees with legal representation and indemnification when they have faithfully performed their duties but said the state should not accept liability for any acts committed in bad faith. In addition, the Governor said, the section indemnifying employees against criminal prosecutions is too vague and "does not adequately define when the state would be obligated to pay for an employee's legal fees."

SPONSOR'S
VIEW:

Rep. Terral Smith said there is no real difference between malice and bad faith. He said the term "bad faith" was switched to "malice" in the bill was because malice is more clearly defined in case law. He noted that neither the current statute nor the bill contains a definition of either term. "This was the one good bill for state employees we passed this session," Rep. Smith said. "The only reason I think he (Gov. White) vetoed the bill is because I'm a Republican. It's the dumbest deal I've ever seen," he said.

NOTES: The House Study Group analysis of HB 226 appeared in the May 6 Daily Floor Report.

Health-service area boundaries
(HB 341 by Stiles)

DIGEST: Current law (VACS art. 4418h) requires the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of